

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

www.montgomerycountymd.gov/content/council/boa/board.asp

Case No. A-5898

PETITION OF JOHN R. HANSEN, JR.
(Hearing held July 16, 2003)

OPINION OF THE BOARD
(Effective date of Opinion, September 11, 2003)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(b)(1). The petitioner proposes to construct a one-story addition/sunroom that requires a 4.50 foot variance as it is within 2.50 feet of the side lot line. The required setback is seven (7) feet.

Mike Libcke, of Patio Enclosures, appeared with the petitioner at the public hearing.

The subject property is Lot 17, Block C, Rock Creek Knoll Subdivision, located at 3308 Jones Bridge Road, Bethesda, Maryland, 20815, in the R-60 Zone (Tax Account No. 00601455).

Decision of the Board: Requested variance **denied**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes to construct a one-story addition/sunroom in the eastern side yard.
2. The petitioner testified that the property is on a major road and that the proposed structure would minimize the noise levels from the road. The petitioner testified that the proposed construction would be located on the footprint of the existing deck.
3. Mr. Libcke testified that the petitioner's residence does not have a rear entrance and that the proposed structure would permit the continuing use of the side entrance to the residence.

FINDINGS OF THE BOARD

Based upon the petitioner's binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) as follows:

(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.

The Board finds that the petitioner's lot has no exceptional topographical or other conditions peculiar to the property that are not shared with the neighboring properties. The Board finds that the petitioner's lot is similar in size and shape to the neighboring lots in the immediate neighborhood. See, Exhibit No. 7 (zoning vicinity map).

The petition does not meet the requirements of Section 59-G-1.3(a) and the Board did not consider the other requirements in that section for the grant of a variance. Accordingly, the requested variance of 4.50 feet from the required seven (7) foot side lot line setback for the construction of a one-story addition/sunroom is denied.

The Board adopted the following Resolution:

Board member Louise L. Mayer was necessarily absent and did not participate in this Resolution. On a motion by Angelo M. Caputo, seconded by Donna L. Barron, with Allison Ishihara Fultz and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 11th day of September, 2003.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County

Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.